

August 27, 2019

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: Request for Review and/or Waiver by the Robstown Independent School District of Funding Decisions by the Universal Service Administrative Company, CC Docket No. 02-6**

Dear Ms. Dortch:

On May 13, 2019, the Robstown Independent School District (Robstown ISD or the District) filed an appeal with the Commission seeking review of funding decisions by USAC for funding year 2002.<sup>1</sup> In its Appeal, Robstown ISD indicated that it had asked USAC to provide any files it had in its possession relating to this matter, and that it would supplement its appeal with any relevant information that USAC produced.<sup>2</sup> USAC did finally provide the requested documents, but not in time for Robstown ISD to incorporate the information they contained into its appeal. Robstown ISD therefore files this letter in order to augment the record with the information that USAC provided, and respectfully asks the Wireline Competition Bureau to consider this information as part of the Appeal.

As the Bureau will recall, USAC issued two recovery of improperly disbursed funds letters (RIDFs) based on a 2006 KPMG audit that identified missing and uninstalled equipment purchased with E-rate funds in funding year 2002.<sup>3</sup> In brief, the information USAC has provided shows (1) that USAC asked Robstown ISD for an update on the unused equipment in February 2009; (2) that in response to USAC's request, Robstown ISD explained that almost all of the equipment in question either had been installed or would be installed within a week of the response, and that only \$8,308.41 worth of equipment remained unaccounted for; (3) that USAC apparently ignored this information when it issued the RIDFs; and (4) that USAC ignored guidance that the Bureau had issued just one month before USAC sent its February 2009 inquiry.

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<sup>1</sup> Request for Review and/or Waiver by the Robstown Independent School District of Funding Decisions by the Universal Service Administrative Company, CC Docket No. 02-6 (filed May 13, 2019) (Appeal).

<sup>2</sup> *Id.* at 13 n.32.

<sup>3</sup> *Id.* at 4-5 & Exh. 3.

After discovering what information USAC had in its possession when it issued the RIDFs, Robstown ISD respectfully argues that, at a minimum, USAC should have limited its recovery efforts to the amount that remained unaccounted for in 2009. Robstown continues to argue, however, that given the passage of time, the extenuating circumstances that were also thoroughly explained to USAC, and the misapplication of the Commission's rules in the original KPMG audit, this recovery effort is inappropriate, and the Bureau should reverse USAC's decisions in their entirety.

### **New Documentation from USAC**

The crucial document that USAC provided in May 2019 was a nine-page response faxed from Robstown ISD to USAC dated March 2, 2009.<sup>4</sup> With that fax, Robstown ISD responded to an information request from USAC, dated February 19, 2009, which sought an update on the equipment that KPMG had identified in its audit as uninstalled.<sup>5</sup> Robstown ISD responded by thoroughly answering USAC's questions, including a certification that the information provided was true and correct.<sup>6</sup> Robstown also attached what it styled as an "appeal," which contained an even more thorough explanation of the status of the equipment in question and the circumstances surrounding the audit findings.<sup>7</sup>

Robstown ISD provided two important pieces of information to USAC in its March 2009 correspondence. The first was a detailed update on the status of the equipment identified by KPMG as missing or uninstalled.<sup>8</sup> USAC's February 2009 letter asked for an update on the equipment that KPMG had identified as still in its original packaging and uninstalled, which consisted of two Catalyst 4006 switches and various Symmetra UPS (uninterruptible power supply) equipment.<sup>9</sup> In response, Robstown ISD explained that the Catalyst switches had actually been installed during funding year 2002; they were installed and operating by September 2003 and remained installed until late 2004.<sup>10</sup> At that time, they were uninstalled so that their blades could be moved to two other Catalyst 4006 switches that needed additional port capacity.<sup>11</sup> The uninstalled switches were put back into their original packaging to await

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<sup>4</sup> See Exhibit 1, Fax from Robstown ISD to USAC, Mar. 2, 2009. USAC also provided the associated FCC Forms 470 and 471 and a copy of the KPMG audit. None of these documents shed additional light on Robstown ISD's original appeal, so we have not attached them to this letter but will gladly provide them to the Bureau upon request.

<sup>5</sup> See Exhibit 1 at 2-3.

<sup>6</sup> *Id.*

<sup>7</sup> Exhibit 1 at 6-9.

<sup>8</sup> See *id.* at 2-3, 6-9.

<sup>9</sup> *Id.* at 2-3.

<sup>10</sup> *Id.* at 3.

<sup>11</sup> *Id.*

replacement blades, which is why KPMG found them in their original packaging.<sup>12</sup> By the time Robstown ISD was able to budget for replacement blades, however, the switches had gone into “end of life” status with the manufacturer.<sup>13</sup>

As for the Symmetra UPS equipment, Robstown ISD explained that all but four units had been installed by July 15, 2005 and had been in use ever since, and that Robstown ISD intended to install the remaining four units in the first week of March 2009.<sup>14</sup> Robstown ISD reiterated what it had told KPMG—that electrical connectivity had been only 70 percent completed at the time of the audit—and that once the electrical work was completed, Robstown ISD was able to install the remaining uninstalled UPS units, albeit later than expected.<sup>15</sup>

Robstown ISD also provided an update on the equipment that KPMG had identified as “missing” in its audit.<sup>16</sup> Robstown ISD was able to report that almost all of the “missing” equipment had been located, and had in fact been installed within the funding year and was in use by the District.<sup>17</sup> Robstown ISD’s inability to locate the equipment in question during the audit was a function of insufficient documentation and staff turnover.<sup>18</sup> Out of the \$45,490.58 worth of equipment that KPMG had identified as “missing,” Robstown ISD had been able to locate all but \$8,308.41 worth of it.<sup>19</sup>

In short, in March 2009 Robstown ISD reported to USAC that it had installed and was still using nearly all of the equipment it purchased in funding year 2002; that two switches had been installed within the funding year, but had subsequently been disabled and reached end-of-life status; that the four remaining uninstalled UPS units would be installed within the following week; and that only \$8,308.41 worth of equipment remained unaccounted for. Robstown ISD explained that staff turnover, insufficient documentation, and delays in electrical installation accounted for the problems identified in the KPMG audit, and that all of these issues had been resolved.

The second important piece of information Robstown ISD provided was a thorough explanation of *why* Robstown ISD had run into problems with equipment inventory management and record keeping in funding year 2002, when it had never encountered such problems before. The District’s IT director had resigned shortly after filing Robstown ISD’s E-rate application for funding year 2002, and within a month the next highest ranking person in the District’s

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<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 6.

<sup>16</sup> *Id.* at 7, 9.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

technology department had retired.<sup>20</sup> These departures placed a significant strain on a small staff, and the District opted to promote from within and train a new technology department head.<sup>21</sup> As a result, Robstown ISD had an inexperienced person handling E-rate matters when the KPMG audit began.<sup>22</sup> The District's new technology director was largely unable to answer KPMG's questions and resigned immediately after the audit was completed.<sup>23</sup> Robstown ISD explained that the inability to locate equipment that it had purchased, as well as the delay in ordering replacement blades for the two uninstalled Catalyst switches, were primarily due to the loss of experienced staff.<sup>24</sup> Robstown ISD also explained that in the wake of the audit, it had hired a new technology director, implemented inventory control measures, and enhanced its understanding of program guidelines and requirements, in order to ensure that the problems it had encountered in funding year 2002 never happened again.<sup>25</sup> Robstown ISD emphasized that there was no intentional waste, no fraud, and no abuse.<sup>26</sup>

### **Analysis**

Robstown ISD respectfully asks the Bureau to consider two facts that the documents USAC produced from 2009 clearly show. First, USAC specifically asked Robstown ISD for an update on the status of the uninstalled equipment identified in the KPMG audit, then apparently ignored the resulting information when it issued its RIDFs for funding year 2002. Second, in ignoring the updated information Robstown provided in March 2009, USAC *also* ignored specific relevant guidance it had received from the Wireline Competition Bureau less than two months earlier.

With respect to the first observation, Robstown ISD cannot think of a legitimate reason for USAC to ignore updated information that it had specifically requested. If USAC did not think there was any need to consider the status of the uninstalled equipment identified in the audit, it had no reason to ask the question in the first place. And if USAC actively determined that Robstown ISD's updated information was insufficient to modify KPMG's recovery recommendation, one would expect USAC to have discussed that determination in the RIDFs or in its denial of Robstown ISD's appeal. But there was no such discussion. The upshot is that USAC either intentionally or inadvertently ignored relevant facts—facts that it had specifically solicited—when it decided to issue RIDFs for funding year 2002.

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<sup>20</sup> *Id.* at 7-8.

<sup>21</sup> *Id.* at 8.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 7, 8.

<sup>25</sup> *Id.* at 8.

<sup>26</sup> *Id.*

As for the second observation, in its Appeal Robstown ISD discussed the Bureau's January 16, 2009 letter to USAC, which instructed USAC that whether to seek recovery where equipment was not being utilized depended on the individual situation.<sup>27</sup> The Appeal noted that Robstown ISD's circumstances "*may* be similar to the circumstances described by the Bureau where recovery was not warranted."<sup>28</sup> But this new documentation makes it clear that Robstown ISD's circumstances *are* similar to the example cited in the Bureau's letter where the Bureau stated that recovery was not warranted. Specifically, in its letter the Bureau said:

There could be situations that would justify a decision to not recover funds. For example, in one of the audits, Brownsville Independent School District delayed installation of all equipment due to human resource limitations, but anticipated that very shortly all of the equipment would be installed. In this instance, if the equipment was subsequently installed, recovery would not be warranted.<sup>29</sup>

Robstown ISD clearly explained in its appeal of the KPMG audit—and again in its March 2009 response to USAC's inquiry—that its own human resource limitations were the primary reason why it was unable to account for all of the equipment it purchased in 2002, and that virtually all of the equipment identified in the audit had indeed been installed by 2005. These facts appear to be very much in line with those of the Brownsville ISD example that the Bureau cited in its letter.

When USAC sent its inquiry to Robstown ISD in February 2009, it had received the Bureau's letter only a month earlier; thus the letter should have been a guiding force in USAC's treatment of Robstown ISD's case, and indeed it is possible that the letter actually prompted USAC to ask about the status of Robstown ISD's unused equipment. Yet there is no evidence that USAC ever applied the Bureau's guidance to its analysis of Robstown ISD's circumstances, because USAC based its RIDFs on the KPMG audit conclusions with no mention of the Bureau's letter or of Robstown ISD's updates on the unused equipment. Robstown ISD respectfully argues that if USAC had followed the Bureau's directives, it likely would have concluded that recovery was not warranted.

## **Conclusion**

Robstown ISD continues to seek the relief it requested in its Appeal, for the reasons discussed therein: we respectfully ask the Bureau to reverse USAC's appeal denial and direct USAC to cease recovery efforts, or to waive the Commission's rules to the extent necessary to grant the requested relief. In light of the new information discussed in this letter, Robstown ISD respectfully requests that if the Bureau declines to grant the relief requested in the Appeal, it direct USAC in the alternative to revisit its original recovery decisions in light of the Bureau's

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<sup>27</sup> See Appeal at 7.

<sup>28</sup> *Id.* (emphasis added).

<sup>29</sup> *Id.*; Letter from Dana R. Shaffer, Chief, Wireline Competition Bureau, to Scott Barash, Acting Chief Executive Officer, USAC, DA 09-86, at 2 (Jan. 16, 2009).

Robstown ISD Letter  
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2009 guidance on unused equipment and the follow-up information Robstown ISD provided on the KPMG audit results.

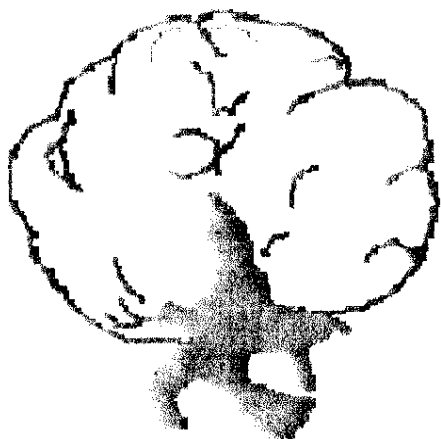
Sincerely,

A handwritten signature in cursive script, reading "Gina Spade".

Gina Spade  
gina@broadbandlegal.com  
(202) 907-6252

*Counsel for Robstown Independent School District*

## **EXHIBIT 1**



ROBSTOWN HIGH SCHOOL  
CAREER & TECHNOLOGY  
EDUCATION

FAX SHEET INFORMATION

DATE: 3/2/09

ATTENTION: Clara Petersen

COMPANY: Schools and Libraries Division Program Compliance

FAX # (973) 599-6582

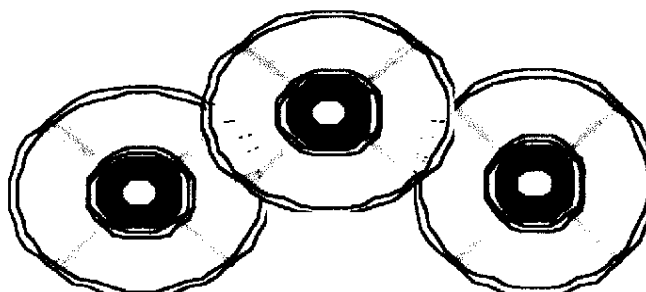
FROM: Orlando Garza

NUMBER OF PAGES (INCLUDING COVER SHEET): 9

IF THERE IS A PROBLEM WITH THIS TRANSMISSION PLEASE CALL  
PHONE #: (361) 387-5999 Ext. 3482

FAX #: (361) 767-6601

MESSAGE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



THANKS !!





February 19, 2009

Fred Zamora or Orlando Garza  
ROBSTOWN INDEP SCHOOL DISTRICT  
(361) 533-5370  
fred.zamora@robstownisd.org or orlando.garza@robstownisd.org  
Form 471 Application Number(s): 295855  
Funding Request Number(s): 829114, 829185

RESPONSE DUE DATE: March 6, 2009

During site visits of the five selected schools, we identified equipment purchased with FY2002 E-Rate funding that was not installed. The equipment was located either in selected schools or was stored in the Beneficiary's warehouse, that led to the COMAD referral. Following is a summary of the uninstalled equipment referred to above, all of which was in its original packaging and had not been deployed:

SYP8K12RMT-P1 – Symmetra RM 8KVA Scalable to 12KVA UPS (2 units)  
SYRMXR4B4 – RM Extended Runtime Battery Cabinet for Symmetra Power Array (4 units)  
SU2200RM3U – Smart UPS 2200VA RM-3U 120V (3 units)  
WS-C4006-S2 – Catalyst 4000 Chassis (6-Slot), Supervisor II (2 units)  
SU1400RMXL3U – Smart UPS 1400VA RM-3U 120V (28 units)

Based on a review of the documentation provided, we have determined that USAC may have improperly disbursed funds for FRNs 829114 and 829185 because equipment was not utilized in accordance with program rules. As a result, USAC may seek recovery of \$17,481 for FRN **829114** and \$56,972 for FRN **829185**.

FCC rules require that applicants have secured all the necessary resources to make effective use of the equipment and that the equipment is utilized for an educational purpose.

In order to continue the review of FRNs **829114** and **829185**, please answer the following questions and sign the certification below:

1) Please provide the date in month/year format when the equipment was first delivered: 01 / 2003

2) Has the equipment been utilized? Yes X (Partially) No       

If Yes, please provide:

- The date(s) in month/year format when the equipment was utilized.
- Documentation demonstrating that the equipment was utilized.
- If the equipment was utilized at different times, provide the type and/or quantity of the equipment utilized by each date and documentation showing utilization for each time.

The two Catalyst 4006 units were installed & operational as of September 17<sup>th</sup>, 2003 (signed work acceptance form attached). These units remained installed until the latter part of 2004. Two 4006 units were replaced with 3500 series switches, and the blades from the 4006 units were moved to two other 4006 units that needed additional port capacity. The intent was to purchase more blades for the 4006 units, and redeploy them. However, by the time the district was able to budget for additional blades the switch units went into "end of life" status with the manufacturer.

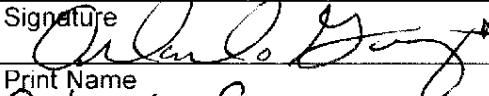
All UPS units listed above (other than four 1400VA units) have been installed. They were installed as of 7/15/05, and have been active ever since. Please see the appeal document that was originally sent in to the SLD by Fred Zamora (previous Technology Director).

If No, do you intend to utilize the equipment? Yes X No \_\_\_\_\_

If Yes, please provide the date(s) in month/year format when you intend to utilize the equipment.  
We intend on installing the remaining four 1400VA units during the 1<sup>st</sup> week of 3 / 2009.

I certify that I am authorized to make the representations set forth in the responses to the Recovery of Erroneously Disbursed Funds inquiry on behalf of **ROBSTOWN INDEP SCHOOL DISTRICT**, the entity represented on and responding to the Recovery of Erroneously Disbursed Funds inquiry, and am the most knowledgeable person with regard to the information set forth therein. I certify that the responses and supporting documentation to the Recovery of Erroneously Disbursed Funds inquiry are true and correct to the best of my knowledge, information and belief. I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I acknowledge that false statements can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.

I declare under penalty of perjury that the foregoing is true and correct. Executed on 2<sup>nd</sup> day of March, 2009 at Robstown [city], Texas [state].

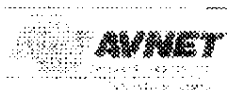
Signature 	Date 3/2/09
Print Name Orlando Garza	Title Technology Coordinator
Employer Robstown Independent School District	
Telephone Number (361) 387-5999 ext. 3511	Fax Number (361) 767-6601
Email Address orlando.garza@robstownisd.org	
Address 801 N. First St. Robstown, TX - 78380	

Thank you for your cooperation and continued support of the Universal Service Program.

Clara Peterson  
Schools and Libraries Division  
Program Compliance  
[cpeters@sl.universalservice.org](mailto:cpeters@sl.universalservice.org)  
Tel: (973) 581-5146  
Fax: (973) 599-6582

08-19-03 FRI 05:03 FAX

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## Work Approval Form

### 40107300 RISD Round 5 Switches

The purpose of this form is to obtain the Customer's Approval of the work as defined in the Customer Approval section below. This form may be used to obtain the Customer's Approval for any portion of the work, including, but not limited to, project milestones, deliverables or final completion requirements. Please describe in the Work Description section below the work for which Customer Approval is requested. After the Customer signs this Approval Form, one original is returned to the Customer and other originals or copies are provided to the persons as specified in the Distribution List below.

#### General Information

Project Name:	RISD Round 5 Switches	Project #: (Macromony Job #)	40107300
Customer:	Robstown ISD	Customer Authorized Approver:	Patrick Chapa
Site Address(es):		Phone Number:	361-387-5999x2254
City:	Robstown	State, Zip:	TX.

#### Work Description

Installation of 6509 and 4006 Cisco Switches in various Campuses throughout RISD.

Submitted By:	Brad Allen, RCDD/QSP PMP	Date:	8/17/03
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#### Customer Approval

Customer (1) accepts the work described above, (2) agrees the work has been completed and meets any completion criteria that may apply to the work, and (3) that for any payment due for the work, agrees that any conditions precedent to such payment have been met and hereby authorizes such payment ("Approval"). The signer represents and warrants that he/she is authorized to issue this Approval on behalf of the Customer.

Disapproved <input type="checkbox"/> (add comments)	Authorized Signature:	Date:	17 Sept 03
Signer's Name:	Patrick F. Chapa	Signer's Title:	IT Coordinator
Comments:			

#### Distribution List:

- \* Approver (original)
- \* Project Manager (original)
- \* Credit
- \* Project Coordinator
- \* District Services Manager
- \*
- \*

## Letter of Appeal

Robstown Independent School District  
801 North 1<sup>st</sup> Street  
Robstown, Texas 78380

Letter of Appeal  
Schools and Libraries Division  
Box 125 – Correspondence Unit  
80 South Jefferson Road  
Whippany, NJ 07981

### **Reference Information**

Appellant Name:	Fred Zamora
Applicant:	Robstown Independent School District
Billed Entity Number:	141604
Application Number:	FCC Form 471 295855
Letter Name/Funding Yr:	Beneficiary Audit/FY 2002
Appeal Reference:	KPMG LLP audit for Robstown ISD for FY 2002

### **SUMMARY of AUDIT FINDINGS**

Robstown was audited by KPMG LLP over the period from May 9, 2005 through April 3, 2006 for Funding Year 2002 and 2003 including an on-site visit and review from May 16-27, 2005. In the report issued by KPMG LLP with respect to this audit, the auditors concluded that Robstown ISD was not compliant for FY 2002, and identified improper payments totaling \$128,252.00.

The improper payments identified were comprised of two categories:

- a) Equipment not installed within the funding year - \$74,453
- b) Equipment identified as "missing" - \$53,799

#### ***Equipment not installed within the funding year - \$74,453***

The equipment "not installed" consisted of Symmetra UPS equipment, and 2 Catalyst 4006 switches. As indicated during the audit exit interview, electrical connectivity supplied by the District's maintenance Department was 70% completed at that time. *As of the date of this appeal letter, all electrical work is completed and all equipment is installed and functioning, with the exception of the 2 - 4006 Catalyst switches.* The 2 uninstalled 4006 Catalyst switches were part of an original order of 4 Catalyst 4006 switches. All four (4) Catalyst switches were originally installed within the funding year.

However, it was discovered during system operation that system performance was inadequate. Two of the switches were uninstalled, and blades from within these devices were removed to be installed into the other two switches already installed. The two switches that were taken out of service were returned to their original packaging, and the district intended to order sufficient blades to insert into the two disabled switches and then return them to service. Before the additional blades were ordered, the top two people in the RISD Technology Dept. left for either other jobs and/or retirement. The incoming person was not aware of the situation, so nothing was ever done to correct this situation.

The turnover evident at RISD during this process was a major factor in the errors that occurred. This will be discussed below in greater depth, and is a root cause for the failure to comply with SLD guidelines, even though purely unintentional.

***Equipment identified as "missing" - \$53,799***

The "missing" equipment consisted of 22 GBIC's, 1 Catalyst 4603 redundant power unit, 4 Catalyst 3524 switches, 15 Symmetra Runtime Battery Cabinets, and 6 1400VA Smart UPS items. Robstown ISD, with the help of the original vendor, has located the following equipment that was identified by the auditors:

Qty 22 - WE-G5484 GBIC's	\$ 6,138.00
Qty 1 - WS-X4608 Catalyst 4603 redundant power unit	\$ 1,002.00
Qty 1 - WS-C3524 Catalyst 3524 switches	\$ 2,229.25
Qty 15 - SYRMXR4B4 runtime battery cabinet	\$32,880.00
Qty 4 - SU1400RMXL3U Smart UPS 1400VA	<u>\$ 3,241.33</u>
Total items located to date	\$45,490.58

The District has been working with their vendor to identify the missing equipment and it's location. All but \$8,308.41 of the original "missing" equipment identified by the auditors has been located. The District is in the process of gathering serial number and photographic evidence to indicate installation.

As mentioned above, the turnover of RISD technology personnel in that FY 2002 time frame was a major cause in the District's inability to maintain adequate inventory records that could have been provided to the auditors.

**Technology turnover during this time**

Robstown is a small school district with 8 campuses, located in Robstown, Texas. We have 1 High School, 2 Jr.High/Intermediate campuses, 4 elementary campuses, and an Alternative campus. The District has almost a 100% free and reduced lunch rate, resulting in a shared discount of 90% for E-Rate applications.

During the FY 2002 funding year, the District had a disproportionate turnover rate in the Technology Dept. Our IT Director resigned shortly after filing the E-Rate application for FY 2002, and the next highest ranking individual in the Technology Department retired

within a month of the IT director leaving. Our staff at that time was only a department of XX people, and other than the two top individuals, most of our remaining staff did not have the necessary experience to manage the department. Rather than hire immediately, the District promoted Rebecca Campos to head the technology Department with the intent that despite no significant experience, she would grow into the job. Unfortunately, the audit of FY 2002 was started coincidentally with the time Rebecca was promoted into the technology leadership position.

As was discovered by the auditors, our inventory records were not very well maintained, and as the auditors began their fact finding visit to Robstown ISD, Rebecca was unable to answer most of their questions concerning inventory that was "missing" or not installed.

The pressure of an E-Rate audit was an immense strain on her, and she tried to resign as the audit began. The school district requested that she remain on the job throughout the audit, as there were no other candidates that understood anything about E-Rate, and even Rebecca's knowledge was barely entry level. The pressure on her, although not intentional on the part of the auditors, was intense, as she had no knowledge of the previous inventory measures or where any of the records could be located. When asked to show the auditors where the "missing" equipment was or if it was installed, she was unprepared to answer. Rebecca resigned immediately after the auditors departed.

This information is shared to simply explain the abnormal situation that was in effect at the time of the audit. There was no intent on the part of Robstown ISD to commit waste, fraud or abuse. Our record of compliance throughout our E-Rate participation has been one of complete compliance with the exception of less than adequate inventory control records. We have always installed the equipment ordered within the appropriate time frame, and been in complete compliance every year except FY 2002, for the reasons explained above.

We cannot deny what the auditors found - we can only offer why it happened as it did, and assure you that was a complete exception due predominantly to complete turmoil within the Technology Dept at that time.

We have made significant improvements, including the hiring of a new Technology Director, implementation of inventory control measures, increased understanding and knowledge of E-Rate guidelines and requirements.

The ability to participate in the E-Rate program has been the only reason we have been able to provide competitive technology services to our students. We can not afford to be without access to this program if we intend to compete in technology access for our students.

We do not believe we committed waste, fraud, or abuse with any predefined intent. What happened was not intentional, rather highly circumstantial. We are not seeking to absolve ourselves from the audit findings, but rather to plead that these situations occurred were

not a normal representation of our participation in the program since the program's inception.

The financial penalty invoked is substantial, and will provide a significant hardship on the District. We would like to ask for your review of the circumstances, note that the equipment has since been installed and is in use as intended (with the exception of the switches that are end of life) and request a reduction be granted to the penalty assessed in the auditors findings report.

We have installed and are using \$45,490.58 of the equipment termed "missing" by the audit report, and this equipment was installed within the appropriate time frame. It was not identified by Rebecca Campos during your auditor on-site visit for the reasons described above. This was not an instance of waste, fraud, or abuse, but rather insufficient documentation and lack of communication within our department. We ask for your consideration in reducing the original amount of missing equipment reported by the auditors of \$53,799 by the amount of \$45,490.58.

We have completed the electrical wiring necessary for all the UPS and backup equipment that was installed after the deadline. This equipment is being utilized by students as intended, albeit late, and we ask for your consideration in reducing the amount of uninstalled equipment reported by the auditors of \$74,453 by an appropriate proportional amount. The 2 - 4006 Catalyst switches that were installed, uninstalled, and were intended to be installed again after appropriate parts were ordered are still uninstalled, and are end of life.

Simply stated, we acknowledge the errors that occurred and have subsequently installed the majority of the uninstalled equipment and have located the majority of the equipment deemed to be missing. We contend that the majority of the equipment deemed missing was installed in the correct time frame.

Based on our efforts to comply with the audit findings, our revised policies and procedures, our totally correct procedures in all the other E-Rate funding years, and our dedication to be a positive model moving forward, we ask for your consideration in reducing the financial penalty to an amount consistent with our findings. This was never an intent to commit waste, fraud, or abuse – it was an unintentional set of happenings, some of which were out of our control, that created a significant but unintentional violation of E-Rate guidelines.

Please advise if you require any additional information to allow you to review our request.

Respectfully Submitted,

Fred Zamora  
Etc.